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Approved at  
Chief Pleas  
2.10.96

Ordinance of the Chief Pleas  
entitled  
The Fishing (Sark) Ordinance, 1996

THE CHIEF PLEAS OF SARK, in pursuance of their Resolutions of the 5th day of October 1994 hereby order:-

Minimum Size of Fish

1. A person shall not import into, export from, or take, have in his possession, buy, sell or offer for sale in, this Island any fish of a species specified in the first column of the First Schedule to this Ordinance which is of a size less than that specified in the second column of that Schedule opposite the reference in the first column of that Schedule to that species of fish.

Prohibition on the export of ormers, sand-eels and smelt

2. A person shall not, at any time, export ormers, sand-eels or smelt from this Island.

Prohibition on landing, sale and export of lobster and crawfish tails and lobster and crab claws

3. A person shall not;

(a) land in, or export from, this Island the tail of any lobster or crawfish or the claw of any lobster, edible crab or spinous spidercrab, the tail or the claw of which, as the case may be, is separated from such lobster, edible crab or spinous spider crab;

(b) sell or offer for sale in this Island the tail

of any lobster or crawfish or the claw of any lobster, edible crab or spinous spider crab, the tail or the claw of which, as the case may be, is separated from such lobster, edible crab or spinous spider crab unless such tail or claw, as the case may be, is in the form of a processed product designated and approved in writing by the Committee.

Close season for lobsters, crawfish and crabs (other than "lady crabs")

4. (1) A person shall not in this Island take, have in his possession, buy, sell or offer for sale any lobsters, crawfish or crabs of any kind, other than those commonly known as "lady crabs", during the period commencing on the twentieth day of October in each year and ending on the twentieth day of March next following, both days inclusive:

PROVIDED that any person found to be in possession of, or buying, selling or offering for sale any lobsters, crawfish or crabs of any kind, other than the said lady crabs, between the twenty-first day of October and the 2nd day of November, both days inclusive, shall be deemed not to have contravened the provisions of this section if that person is able to prove that those lobsters, crawfish or crabs were not taken after the twentieth day of October.

(2) Subsection (1) shall not apply to preserved lobsters, crawfish or crabs of any kind.

Close season for ormers

5. (1) A person shall not in this Island take, have in his possession, buy, sell or offer for sale ormers,

other than preserved ormers, at any time except on the day of each new moon and on the three days next following and on the day of each full moon and on the three days next following during the period commencing on the tenth day of October in each year and ending on the thirtieth day of April next following, both days inclusive:

PROVIDED that any person found to be in possession of, or buying, selling or offering for sale, ormers on the first or second days of May or on the fourth or fifth days next following a new moon or full moon during the above-specified period shall be deemed not to have contravened the provisions of this subsection if that person is able to prove that those ormers were not taken after the thirtieth of April or after the third day next following the new moon or full moon, as the case may be.

(2) Notwithstanding the provisions of the last preceding subsection a person shall not at any time take ormers between the hours of sunset and sunrise.

Prohibition on diving for or harpooning fish

6. (1) A person shall not, while he is totally or partially submerged in the territorial waters of this Island and breathing with the aid of a submarine breathing apparatus or wearing a face visor, take fish of any kind.

(2) Any person who, on surfacing after having been totally or partially submerged in the territorial waters of this Island and breathing with the aid of a submarine breathing apparatus or wearing a face visor,

is found to have in his possession fish of any kind shall be deemed to have contravened the provisions of the last preceding subsection unless he is able to prove that he did not take the fish while he was so totally or partially submerged.

(3) If any fish is found in the possession or control of a person using a boat as a base for diving and such boat is within any part of the territorial waters in which the taking by diving of such fish is prohibited under subsection (1) of this section, the onus of proof that such boat was not in the said part of the territorial waters shall lie with such person.

(4) A person shall not, within the territorial waters of this Island, take fish of any kind by the use of a harpoon, spear or similar object.

Prohibition on dredging for fish

7. A person shall not use or cause or permit any other person to use any boat within the territorial waters of this Island for the purpose of fishing by any method of dredging whatsoever.

Restrictions on shucking of shellfish

8. (1) A person shall not, within the territorial waters of or in this Island:

(a) subject to subsection (2), shuck on board any boat any molluscan shellfish taken within the said territorial waters;

(b) land any molluscan shellfish shucked in contravention of paragraph (a);

(c) subject to the provisions of subsections (2) and (3), retain on board a boat, land or be in possession of any molluscan shellfish which, by virtue of damage to its shell is smaller than the minimum prescribed size for that species.

(2) No offence is committed under subsection (1)(a) if the person charged can prove that he shucked the shellfish for immediate consumption on board the boat by himself or by another.

(3) No offence is committed under subsection 1(c) if the size of the molluscan shellfish, despite damage to its shell, is greater than the minimum prescribed size for that species and the body remains properly attached to the shell.

(4) When any person is charged with an offence under subsection 1(a) or (b) of this section the onus of proof that the molluscan shellfish was not taken within the territorial waters shall lie with such person.

#### Restrictions on trawling for fish

9. A person shall not, during the period commencing on the twenty-first day of March each year and ending on the nineteenth day of October next following, both days inclusive, use or cause or permit any other person to use any boat for the purpose of fishing by any method of trawling whatsoever within any part of the territorial waters of this Island lying within any of

the areas bounded respectively by the foreshore of this Island and -

- a) an imaginary line drawn from the navigational light placed at the north end of Le Bec du Nez to La Neste west of Brecqhou;
- b) an imaginary line drawn from La Neste to the north-western point of La Moie de la Fontaine;
- c) an imaginary line drawn from the south-western point of La Moie de Brenière to the south-eastern point of La Conchée;
- d) an imaginary line drawn from the south-eastern point of La Conchée to the north-eastern point of Les Burons;
- e) an imaginary line drawn from the north-eastern point of Les Burons to the north-eastern point of La Petite Moie; and
- f) an imaginary line drawn from the northern-east point of La Petite Moie to the navigational light at Le Bec du Nez.

Prohibition on beam trawlers

10. A person shall not use or cause or permit any other person to use any boat carrying a beam trawl within the territorial waters of this Island for the purpose of fishing unless the overall length of the permanent structure of such boat does not exceed 8.50 metres.

Maximum engine power for trawling

11. A person shall not, at any time, within the

territorial waters of this Island, use or cause or permit any other person to use, any boat for the purpose of fishing by any method of trawling whatsoever, the engine power of which exceeds 221 kilowatts (300 HP) or its equivalent, as detailed in the boat's registration documents.

Restriction on pots

12. A person shall not place or leave a pot intended or adapted for use for taking fish of any kind in the territorial waters of this Island during the period commencing on the twentieth day of October in each year and ending on the twentieth day of March next following, both days inclusive.

Prohibition on use and carrying of parlour pots

13.(1) No person shall in the territorial waters of this Island use or cause or permit to be used a parlour pot.

(2) A parlour pot shall not be carried on a vessel in the territorial waters of this Island.

(3) It is a defence for a person charged with an offence under the previous sub-section to prove that, on the occasion of the alleged offence, the parlour pot in question had not been and was not going to be used in the territorial waters.

Use of explosives, etc., prohibited

14. A person shall not in this Island make use of dynamite or any other explosive or any stupefying substance to take or destroy fish or be in possession of dynamite or any other explosive or any stupefying substance for the purpose of taking or destroying fish.

Exceptions for scientific research

15. Notwithstanding any provision in this Ordinance, the Committee may, in writing, authorise a person to dive for fish or to fish in the territorial waters of this Island for the purposes of scientific research.

Access to and fishing in territorial waters

16.(1) Subject to the provisions of subsection (4) of this section a foreign fishing boat shall not enter any part of the territorial waters of this Island except for a purpose recognised by international law or by any convention for the time being in force in this Island between Her Majesty's Government in the United Kingdom and the government of the country to which the boat belongs; and any such boat which enters those waters for such a purpose -

(a) shall return outside those waters as soon as the purpose has been fulfilled; and

(b) shall not fish or attempt to fish while within those waters.

(2) Subject to the provisions of subsection (4) of this section a foreign fishing boat shall not fish or attempt to fish within any part of the territorial waters of this Island.

(3) Subject to the provisions of subsection (4) of this section, at any time when a foreign fishing boat is within any part of the territorial waters of this Island then its fishing gear shall be stowed securely and in such a manner that it shall not be capable of being used for fishing.

(4) Nothing in this section shall affect the operation of any order for the time being in force in this Island made under section 2(1) of the Fishery Limits Act 1976 designating any country outside the United Kingdom, the Channel Islands and the Isle of Man and, in relation to it, areas within any part of the territorial waters of this Island being part of the British fishery limits in which, and descriptions of fish for which, fishing boats registered in that country may fish.

Powers of the Constable

17. The Constable may -

- (a) detain any person who has committed, or whom he has reasonable cause to suspect of having committed, an offence under any of the provisions of this Ordinance;
- (b) stop, board and enter and search any boat or vehicle used in taking or conveying fish;
- (c) enter and search any premises used by way of trade for carrying on any business in connection with the treatment, storage or sale of fish;
- (d) search for and examine any fish, net, explosive, substance, diving apparel or equipment or other apparatus whatsoever used in taking or conveying fish, or any matter the deposit of which is prohibited or regulated under any of the provisions of this Ordinance, in any place, whether on

board a boat, in a vehicle or elsewhere, and whether in a receptacle or not;

(e) seize any fish which he has reasonable cause to suspect is to be exported from this Island or has been landed, taken, bought, sold, offered for sale or is possessed in contravention of any of the provisions of this Ordinance;

(f) seize any fish, net, explosive, substance, diving apparel or equipment or other apparatus whatsoever which he has reasonable cause to suspect has been used or carried or is being used or carried in contravention of any of the provisions of this Ordinance;

(g) open, inspect and seize any pot which he has reasonable cause to believe has been placed or left in contravention of the provisions of this Ordinance or may inspect and seize any fish found therein, or both.

#### Penalties

18. Any person who contravenes or attempts to contravene any of the provisions of this Ordinance or who wilfully obstructs the Constable in the exercise of any of his powers under any of the provisions of this Ordinance shall be guilty of an offence and liable, on conviction, to a fine not exceeding level 4 on the Sark uniform scale of fines or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment and the Court may, in addition, order the seizure, destruction or other disposal of the fish and of any equipment or other apparatus whatsoever to which

the conviction relates at the expense of the convicted person.

Offences involving the use of a boat

19. Where a person has been convicted of an offence under this Ordinance involving the use of a fishing boat, every person who, at the time of the commission of the offence, was on board such boat or was the master, the owner or the charterer (if any) of such boat, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

Offences by bodies Corporate

20. Where an offence under this Ordinance which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any negligence on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in such capacity, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Exemption of Liability

21. The Constable shall not be liable to any civil or criminal proceedings for anything done in the purported exercise of the powers conferred on him by section 18 of this Ordinance if the Court is satisfied that the act was done in good faith and with reasonable skill and care and that there were reasonable grounds for doing it.

Interpretation

22.(1) In this Ordinance, except where the context otherwise requires, the following expressions have the meaning hereby respectively assigned to them, that is to say:-

"the Committee" means the Sark Sea Fisheries Committee";

"the Constable" includes the Vingtenier, and any duly authorised member of the salaried police force of the Island of Guernsey;

"contravene" includes failure to comply, and cognate expressions shall be construed accordingly;

"the Court" means the Court of the Seneschal;

"face visor" includes goggles;

"fish" means fish of any kind found in the sea, whether alive or dead, including shell-fish, and any part of such fish;

"fishing boat" means a vessel of whatever size, and in whatever way propelled, which is for the time being used in fishing;

"foreign fishing boat" means a fishing boat which is not -

(a) registered in the United Kingdom, the Channel Islands or the Isle of Man; or

- (b) exempted from registration by regulations under section 373 of the Merchant Shipping Act 1894; or
- (c) owned wholly by a person who is (within the meaning of the Merchant Shipping Act 1894) qualified to own a British ship;

"this Island" means the Island of Sark and includes the islets and rocks and the territorial waters adjacent thereto;

"parlour pot" means any pot which would commonly be so described and includes any pot, basket or cage which is designed, adapted or capable of being used for the taking of crustaceans and which

- a) contains, or any chamber of which contains, a trap or other device designed to prevent a crustacean which has entered the pot or chamber from leaving it, or

- b) whether or not it contains any trap or device as aforesaid, has an entrance or exit which is not rigid;

"preserved" means cooked, pickled or deep frozen;

"shellfish" includes crustaceans and molluscs of any species and any spat or spawn of shellfish;

"submarine breathing apparatus" includes the apparatus commonly known as a "snorkel" and any other diving device;

"vehicle" means a mechanically propelled vehicle intended or adapted for use on a public highway and includes a trailer drawn thereby, an animal drawn vehicle, a bicycle and a tricycle.

(2) The Interpretation (Guernsey) Law, 1948, shall apply to the interpretation of this Ordinance as it applies to the interpretation of a Guernsey enactment.

(3) Any reference in this Ordinance to any other enactment shall, except where the context otherwise requires, be construed as including a reference to that enactment as amended, repealed or replaced, extended or applied by or under any other enactment including this Ordinance.

23. The enactments set out in the Second Schedule to this Ordinance are hereby repealed.

24. This Ordinance shall come into force on the 1st day of December , nineteen hundred and ninety-six.

FIRST SCHEDULE

Section 1

*Minimum size of certain fish*

Species of fish	Minimum Size
Blue Ling	Seventy centimetres in length
Conger eel	Fifty-eight centimetres in length
Bass	Thirty-six centimetres in length
Cod, Saithe	Thirty-five centimetres in length
Haddock, Hake, Turbot, Brill, Pollack, Shad	Thirty centimetres in length
Witch Flounder	Twenty-eight centimetres in length
Plaice, Megrin, Red Seabream, Flounder, Lemon Sole	Twenty-five centimetres in length
Sole	Twenty-four centimetres in length
Whiting, Black Sea-bream	Twenty-three centimetres in length
Grey Mullet, Herring, Mackerel	Twenty centimetres in length
Dab, Red Mullet, Horse Mackerel (scad)	Fifteen centimetres in length
Skate (Ray)	Thirty centimetres in breadth
Crabs, commonly known as "Chancre"	Fourteen centimetres along a horizontal plane between perpendiculars at the extremities of a line drawn between the two most distant extremities of the shell

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Species of fish	Minimum Size
Crabs, commonly known as "Lady Crabs"	Five centimetres along a horizontal plane between perpendiculars at the extremities of a line drawn between the two most distant extremities of the shell
Crabs, commonly known as "Spider Crabs"	A carapace length of twelve centimetres, being the length measured from between the two horns protecting the eye sockets to the rear end of the body shell along the centre line of the body shell
Lobsters	A carapace length of eighty-five millimetres, being the length measured from the rear of either eye socket to the rear end of the body shell along a line parallel to the centre line of the body shell
Crawfish	Twenty-three centimetres from the tip of the beak to the end of the tail
Escallops, other than those commonly known as "Queen Escallops"	Ten centimetres along a horizontal plane between perpendiculars at the extremities of a line drawn between the two most distant extremities of the shell
Ormers	Eight centimetres along a horizontal plane between perpendiculars at the extremities of a line drawn between the two most distant extremities of the shell
Clams	Forty millimetres measured along the maximum length of the shell

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*Ordinances Repealed*

The Fishing (Sark) Ordinance 1958  
The Fishing (Sark) Ordinance 1966  
The Fishing (Amendment) (Sark) Ordinance 1969  
The Fishing (Amendment) (Sark) Ordinance 1973  
The Fishing (Amendment) (Sark) Ordinance 1974  
The Fishing (Amendment) (Sark) Ordinance 1979  
The Fishing (Amendment) (Sark) Ordinance 1985  
The Fishing (Amendment) (Sark) Ordinance 1986  
The Fishing (Amendment) (Sark) Ordinance 1989  
The Fishing (Amendment) (Sark) Ordinance 1990  
The Fishing (Parlour Pots) (Sark) Ordinance 1992  
The Fishing (Amendment) (Sark) Ordinance 1995